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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,246	03/24/2005	Gerhard Kelch	LO37-001	8650

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WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201		

EXAMINER	
HARRINGTON, ALICIA M	

ART UNIT	PAPER NUMBER
2873	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,246

Applicant(s)

KELCH ET AL.

Examiner

Alicia M. Harrington

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Information Disclosure Statement

The Examiner has considered the information disclosure statement filed on 11/13/07.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 28-31, 33-35, 38, 44-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Giurao et al (US 6,511,180).

Regarding claim 28-31,33-35,38,41-42 Giurao discloses detection of aberrations(n) and design a lens to correct less than all or partially all the aberrations of the eye. Col. 4, col. 5; col. 6, lines 24-47; col. 12, lines 10-30.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36, 37, 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guirao (US 6,511,180).

Regarding claim 36, 37, 44-46 Guirao discloses the claimed invention except for the claimed percentages. It would have been obvious to one of ordinary skill in the art at the time the invention was made , since it has been held that where the general conditions of the claim are disclosed in the prior art, discovering an optical workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Claims 28-33, 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai (US 6,836,371).

Regarding claim 28-29,36-37 Lai '371 discloses a method for producing a lens (title; abstract) comprising: providing spectacle lens to correct aberrations of an eye of an ametropic person (col. 5, lines 61-67), the spectacle lens comprising at least one refracting surface configured to implement, for at least one direction of view, a dioptric correction of the ametropia, wherein the at least one refracting surface comprises a shape (col. 5, lines 61-67; col. 17, lines 20-48); and changing at least a portion of the shape of the at least one refracting surface to correct aberrations of a higher order (col. 17, lines 20-48; col. 3, line 66-col. 4, line 31; col. 5, line 43-col. 6, line 11; col. 16, line 52-col. 17, line 4, wherein the addition of the polymer compositions to the ophthalmic blanks changes the shape of the refractive surface).

Guirao discloses the claimed invention except for the claimed percentages. It would have been obvious to one of ordinary skill in the art at the time the invention was made, since it has been held that where the general conditions of the claim are disclosed in the prior art, discovering an optical workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Regarding claim 30, Lai '371 discloses a method as shown above, and further discloses that a spherical aberration is corrected as an aberration of higher order (col. 17, lines 20-48).

Regarding claim 31, Lai '371 discloses a method as shown above, and further discloses that a coma is corrected as an aberration of higher order (col. 17, lines 20-48).

Regarding claim 32, Lai '371 discloses a method as shown above, and further discloses that a trefoil aberration is corrected as an aberration of higher order (col. 17, lines 20-48).

Regarding claim 33, Lai '371 discloses a method as shown above, and further discloses that values required for correcting said aberrations are determined by measuring visual acuity by implementing the following method: by measuring a wavefront (Fig. 8; col. 17, lines 20-48).

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai '371, as applied to independent claim I above, and further in view of Perrott '337 (US 2002/0118337).

Regarding claim 38, Lai '371 discloses a method for producing a lens as shown above, and further discloses changing the shape of the at least one refracting surface (col. 17, lines 20- 48), but does not specifically disclose changing the shape to form an aspheric surface. In the same field of endeavor of ophthalmic lenses, Perrott '337 teaches of a lens with an aspheric surface for the purpose of correcting for off-axis prismatic disparity and partially adjusting for off-axis astigmatic and mean power errors (sec. 0068, 0083-0085). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made for the method of Lai '371 to change the shape to form an aspheric surface since Perrott '337 teaches of a lens with an aspheric surface for the purpose of correcting for off-axis prismatic disparity and partially adjusting for off-axis astigmatic and mean power errors.

Regarding claim 39, Lai '371 discloses a method for producing a lens as shown above, and further discloses changing the shape of the at least one refracting surface (col. 17, lines 20- 48), but does not specifically disclose changing the shape to form an atoric surface. In the same field of endeavor of ophthalmic lenses, Perrott '337 teaches of a lens with an atoric surface for the purpose of correcting for off-axis prismatic disparity and partially adjusting for off-axis astigmatic and mean power errors (sec. 0068, 0083-0085, 0208). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made for the method of Lai '371 to change the shape to form an atoric surface since Perrott '337 teaches of a lens with an atoric surface for the

purpose of correcting for off-axis prismatic disparity and partially adjusting for off-axis astigmatic and mean power errors. 14.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lai '371, as applied to independent claim 1 above, and further in view of Abitbol '412 (US 2002/0196412). Regarding claim 40, Lai '371 discloses a method for producing a lens as shown above, and further discloses changing the shape of the at least one refracting surface (col. 17, lines 20- 48), but does not specifically disclose changing the shape to form a free form surface. In the same field of endeavor of ophthalmic lenses, Abitbol '412 teaches of a lens with a free form surface for the purpose of enabling the lens to compensate for higher order aberrations of the eye (sec. 0072-0073). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made for the method of Lai '371 to change the shape to form a free form surface since Abitbol '412 teaches of a lens with a free form surface for the purpose of enabling the lens to compensate for higher order aberrations of the eye.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lai '371, as applied to independent claim 1 above, and further in view of Morris '408 (US 6,454,408). Regarding claim 43, Lai '371 discloses a method for producing a lens as shown above, but does not specifically disclose that a transition of a region with highest visual acuity into a region with slightly reduced visual acuity is performed via an edge. In the same field of endeavor of methods for producing a lens, Morris '408 teaches of lenses wherein

a transition of a region with highest visual acuity into a region with slightly reduced visual acuity is performed via an edge (col. 14, lines 20-24, 29-31) for the purpose of providing fashionable prescription visors, shields, or dual lens renditions of similar fashion and style objectives (col. 14, lines 48- 51). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made for the method of Lai '371 to include that a transition of a region with highest visual acuity into a region with slightly reduced visual acuity is performed via an edge since Morris '408 teaches of lenses wherein a transition of a region with highest visual acuity into a region with slightly reduced visual acuity is performed via an edge for the purpose of providing fashionable prescription visors, shields, or dual lens renditions of similar fashion and style objectives.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Harrington whose telephone number is 571 272 2330. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571 272 2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control
Number: 10/529,246
Art Unit: 2873

Page 8

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alicia M Harrington
Primary Examiner
Art Unit 2873

AMH